

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 714/97.

Date of Decision: 24.11.1997

A.H.Borase

.. Applicant

Shri Suresh Kumar

.. Advocate for  
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri V.D.Vadhavkar for Shri M.I.Sethna

.. Advocate for  
Respondent(s)

CORAM:

The Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,

The Hon'ble Shri P.P.Srivastava, Member(A).

- (1) To be referred to the Reporter or not ? *WV*
- (2) Whether it needs to be circulated to other Benches of the Tribunal ? *WV*

*R. G. Vaidyanatha*  
(R.G.VAIDYANATHA)  
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI,

ORIGINAL APPLICATION NO. 714/ 1997.

Monday, this the 24th day of November, 1997.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,  
Hon'ble Shri P.P.Srivastava, Member(A).

A.H. Borase,

56/2373,

Sector - 7, CGS Colony,  
Antop Hill,

Mumbai - 400 037.

... Applicant.

(By Advocate Shri Suresh Kumar)

V/s.

1. Union of India through  
the Secretary Ministry of  
Finance, Department of Revenue,  
North Block,  
New Delhi.

2. Commissioner of Central Excise,  
Commissionerate-11,  
Piramal Chamber, Jijibhoy Lane,  
Parel,  
Mumbai-400 012.

3. Commissioner of Central Excise,  
Commissionerate-1,  
New Central Excise Building,  
Churchgate,  
Mumbai-400 020.

... Respondents.

(By Advocate Shri V.D.Vadhavkar  
for Shri M.I.Sethna).

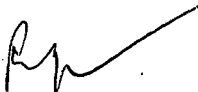
O R D E R

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application under section 19 of the  
Administrative Tribunals Act, 1985 for quashing the  
charge sheet and for seeking promotion and other reliefs.  
The respondents have filed their reply opposing the  
application. Heard both sides.

2. As far as the prayer regarding the charge sheet  
is concerned, it is stated by the respondents that the

...2.



Enquiry has been completed and the matter is pending with the Disciplinary Authority to take a final decision on the charge sheet issued in the Disciplinary Enquiry. Since the matter is about 13 years old we would <sup>expect</sup> expeditious disposal of the present charge sheet which is pending consideration before the Disciplinary Authority within a period of four months from to day. The learned counsel for the applicant is satisfied if there is an order for expeditious disposal of the present charge sheet.

3. Another prayer which was pressed by the learned counsel for the applicant is seeking an order for ad hoc promotion, which is <sup>in</sup> para 4 of the Guidelines for promoting employees undergoing vigilance proceedings as per the Central Government Official Memorandum dt. 14.9.1992/ 9.10.1992. We have perused the guidelines issued by the Government of India. In the present case, the applicant is facing departmental enquiry. The question of his promotion came before the Departmental Promotion Committee (DFC) and they have kept the findings in a 'sealed cover'. Admittedly, the enquiry is not completed within a period of six months or two years as mentioned in the guidelines. Therefore, under para 4 of the guidelines, the Government <sup>has</sup> ~~is~~ to review the case of promotion of an official facing enquiry on ad hoc basis as per the procedure mentioned in para 5. Since <sup>in</sup> the present case the enquiry has been pending for the last 13 years, the applicant is entitled to be considered for ad hoc promotion under para 5 of the said Office Memorandum which provides the procedure for ad hoc promotion <sup>in</sup> ~~in~~ case of an official who is facing departmental enquiry and the enquiry is not completed

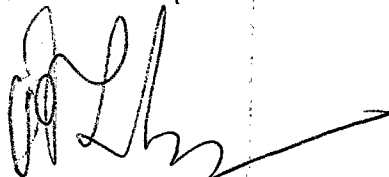
...3. *Ry*

within a period of six months. We therefore, feel that <sup>this</sup> in/case a direction should be given to the respondents to consider the case of the applicant for ad hoc promotion as per rules.

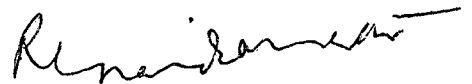
4. In the result, the O.A. is disposed of at the admission stage itself by giving the following directions :

- (1) The Disciplinary Authority is directed to take a final decision on the pending charge sheet against the applicant within a period of four months from to day.
- (2) The respondents are directed to consider the case of the applicant for ad hoc promotion as per rules in the light of para 5 of the guidelines of the office memorandum dt. 14.9.1992/9.10.1992 within a period of four weeks from to day.

In the circumstances of the case, there will be no order as to costs. Copy of the order be furnished to both the parties.



(P.P. SRIVASTAVA)  
MEMBER(A)



(R.G. VAIDYANATHA)  
VICE-CHAIRMAN.

B.

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY.

C.P. 7/98, MPs. 114, 115, 235 and 236/98 in  
Original Application No. 714/97

Tribunal's order

Dated: 31.7.98

Shri Suresh Kumar, counsel for the  
applicant. Shri M.I. Sethna, counsel for the  
respondents.

2. The case is called for hearing on CP 7/98  
filed by the applicant and MPs 114, 115, 235 and  
236/98 filed by the respondents.

Shri Suresh Kumar makes a submission that  
the Disciplinary authority has already passed an  
order in terms of the directions of the Tribunal  
dated 24.11.97. The learned counsel for the applicant  
also submits that the applicant has been given  
ad hoc promotion. Therefore he is not pressing the  
C.P. In view of the submission made by the learned  
counsel for the applicant the MPs filed by the  
respondents does not survive. Accordingly <sup>C.P. 7/98 and</sup> <sup>MPs</sup>  
114, 115, 235 and 236 are stands disposed of.

(D.S. Baweja)  
Member (A)

(R.G. Vaidyanatha)  
Vice Chairman

NS

del 31/7/98  
order/Judgement despatched  
to Applicant/Respondent (s)  
on 10/8/98

12/8/98